

Date October 23, 2023

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF HART AVENUE RIGHT-OF-WAY IN THE VICINITY OF 1540 HART AVENUE AND CONVEYANCE TO BOUNTHIENG J. EGKHOUNMUONG AND MANICHANH EGKHOUNMUONG FOR \$800.00

WHEREAS, on August 21, 2023, by Roll Call No. 23-1168, the City Council of the City of Des Moines, Iowa voted to receive and file the communication from the Plan and Zoning Commission recommending the approval of a request from Bounthieng J. Egkhounmuong and Manichanh Egkhounmuong for vacation of 461 lineal feet of the easternmost undeveloped Hart Avenue right-of-way in the vicinity of adjoining properties at 1540 Hart Avenue, subject to the reservation of easements for public until such time that they are abandoned or relocated at the applicant's expense and provision of any necessary no-build easements; and

WHEREAS, Bounthieng J. Egkhounmuong and Manichanh Egkhounmuong, are the owners of 1540, 1545, 1560, 1575 and 1580 Hart Avenue, Des Moines, Iowa, all of which adjoin and the easternmost 461 feet of Hart Avenue, have offered to the City of Des Moines (“City”) the purchase price of \$800.00 for the purchase of the portion of vacated Hart Avenue right-of-way lying between their adjoining properties (hereinafter “Property”), for assemblage with their adjoining properties, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated, which price reflects the fair market value of the City Property as determined by the City’s Real Estate Division; and

WHEREAS, the City’s Real Estate Division has determined that a no-build easement is not necessary; and

WHEREAS, there is no known current or future public need for the street right-of-way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said Property.

WHEREAS, on October 2, 2023, by Roll Call No. 23-1318, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the street right-of-way be set for hearing on October 23, 2023, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to vacate and convey the Hart Avenue right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in the proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

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1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and conveyance of alley right-of-way, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the easternmost 461 feet of undeveloped Hart Avenue right-of-way adjoining 1540, 1545, 1560, 1575 and 1580 Hart Avenue, Des Moines, Iowa, legally described as follows, and said vacation is hereby approved:

ALL THAT PART OF HART AVENUE RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOTS 22, 23 AND 24, CAPITOL VIEW ACRES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APROXIMATELY 20,120 SQUARE FEET.

3. The proposed sale of such vacated Hart Avenue right-of-way, as legally described below and to the grantees and for the consideration identified below, subject to reservation of easements therein, and said conveyance is hereby approved:

Grantee: Bounthieng J. Egkhounmuong and Manichanh Egkhounmuong

Consideration: \$800.00

Legal Description:

ALL THAT PART OF VACATED HART AVENUE RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOTS 22, 23 AND 24, CAPITOL VIEW ACRES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APROXIMATELY 20,120 SQUARE FEET.

4. The Mayor is authorized and directed to sign the Offers to Purchase and Quit Claim Deeds for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon proof of payment of the consideration, plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Quit Claim Deeds, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deeds, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

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- 7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and a copy of the other documents to the grantees.
- 8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by _____ to adopt. Second by _____

APPROVED AS TO FORM:

/s/ Chas M. Cahill
Chas M. Cahill, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	

Mayor

CERTIFICATE

I, LAURA BAUMGARTNER, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Laura Baumgartner, City Clerk

